

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS, INC., a Delaware Corporation, and	)	
NICE SYSTEMS, LTD., an Israeli Corporation,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Action No. 06-311-JJF
	)	
WITNESS SYSTEMS, INC., a Delaware Corporation,	)	
	)	
Defendant.	)	

**JOINT PROPOSED ORDER**  
**IMPLEMENTING JULY 13, 2007 DISCOVERY RULINGS**

1. PLAINTIFFS' MOTION TO COMPEL DEPOSITIONS NOTICED DURING THE PERIOD FOR FACT DISCOVERY (D.I. 176) is hereby GRANTED in part and DENIED in part as more fully set forth at the hearing (July 13, 2006 Hearing Transcript, p. 33-34), and further, specifically:

- a. Plaintiffs Motion is GRANTED to the extent that Defendant shall produce for deposition four deponents selected by Plaintiffs from the seven deponents that were the subject of the Motion.
- b. Defendant has agreed to assist in attempting to schedule the deposition of Richard Heap, a non-party witness whom the parties learned after the July 13 hearing has recently relocated to New Jersey from the United Kingdom, if Mr. Heap's deposition is requested by Plaintiffs.

2. DEFENDANT'S MOTION TO COMPEL NICE SYSTEMS, INC. AND NICE SYSTEMS LTD. TO PRODUCE DOCUMENTS AND RULE 30(b)(6) TESTIMONY (D.I. 171) is GRANTED (July 13, 2006 Hearing Transcript, p. 33-34) to the extent of the compromise reached by the parties, and is otherwise DENIED. Specifically:

- a. **Witness' 30(b)(6) Deposition of NICE.** Consistent with the terms of the letter dated June 22, 2007 from Plaintiffs' counsel to Defendant's counsel as well as other written communications between counsel (*See e.g.*, Exs. F, H and I to D.I. 189):
  - i. Plaintiffs will produce for deposition NICE's Rule 30 (b)(6) designees, including Yochai Rozenblat, Vice President of Sales at NICE Inc., to provide testimony for topics 10, 22, 23, 26, 28, 30-33.

- ii. Plaintiffs will produce John Henits, as Plaintiffs' Rule 30(b)(6) designee, to provide testimony for topics 4, 6, 7, 18, 19, 21, 24, 25, 27, 31 and 34.
  - iii. Defendant has agreed to withdraw topics 1, 2, 3, 5, 9, 11 and 14.
- b. **Plaintiffs' Production of Documents.** Consistent with the terms of the letter dated July 11, 2007 from Plaintiffs' counsel to Defendant's counsel, Plaintiffs will conduct a reasonable search for and produce emails responsive to the following two categories:
- i. NICE emails relating to the conception and reduction to practice of the inventions claimed in the two patents-in-suit originating from NICE (*i.e.*, the '109 and '079 Patents); and
  - ii. NICE emails relating to the remedies NICE seeks (damages and injunctive relief), *i.e.*, emails related to the sales and marketing of NICE products embodying the patents-in-suit, and related to NICE's decision to stop selling the Dictaphone products once it acquired Dictaphone's CRS business.

3. PLAINTIFFS' MOTION TO COMPEL DISCOVERY RELATING TO CERTAIN DOCUMENTS PRODUCED BY DEFENDANT WITNESS SYSTEMS, INC. (D.I. 160) is hereby GRANTED for the reasons stated at hearing on July 13, 2007 (Hearing Transcript dated July 13, 2006, p.6-8) and it is specifically further ordered that, absent a specific claim of privilege or work product immunity, any document that has to do with the Technology Advisory Council or related committee must be produced (*id* at 7:24 – 8:17).

4. All depositions are to be scheduled as soon as reasonably practicable on dates and at times mutually convenient to the witnesses and counsel.

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*/s/ Melanie K. Sharp*

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Dated: August 13, 2007

FISH & RICHARDSON, P.C.

*/s/ Kyle Wagner Compton*

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SO ORDERED this \_\_\_\_ day of August, 2007.

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UNITED STATES DISTRICT JUDGE